

# **Policies and Procedures Manual: Performance Accountability**

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## **PURPOSE**

Pursuant to the Workforce Investment Act of 1998 (WIA), as amended (29 U.S.C. 2801 et seq.) and WIA Final Rule, 20 CFR parts 660-671, the Department of Labor and Industrial Relations (DLIR), Workforce Development Council (WDC), on behalf of the Governor, is responsible for ensuring that the Local Workforce Investment Boards (LWIBs) are meeting at least 80% of their mutually agreed upon performance goals.

This Policies and Procedures Manual for Performance Accountability provides information regarding corrective actions for continual failure of local performance measures.

## **REFERENCES**

1. Wagner-Peyser Act, as amended (29 U.S.C. 49 et seq.);
2. Workforce Investment Act of 1998 (WIA), as amended (29 U.S.C. 2801 et seq.);
3. WIA Final Rule, 20 CFR parts 660-671;
4. Full-Year Continuing Appropriations Act, 2011, Public Law (PL) 112-10;
5. Planning Guidance for the Strategic State Plan for Title I of the Workforce Investment Act of 1998 (WIA) and the Wagner-Peyser Act (W-P) [73 FR 72853 Dec. 1, 2008] (OMB No. 1205-0398)
6. State Unified Plan Planning Guidance [73 FR 73730 Dec. 3, 2008] (OMB No. 1205-0398)
7. Training and Employment Guidance Letter No. 37-10, page 2, section 4.A.5; page 4, section 5.A.

## **DESIGNATED STATE AGENCY**

The Department of Labor and Industrial Relations (DLIR), Workforce Development Council (WDC) is the designated State agency for these procedures.

## **BACKGROUND**

The workforce investment system established under the WIA emphasizes informed customer choice, system performance, and continuous improvement to increase the employment, retention and earnings of participants and increase occupational skill attainment by participants, and as a result, improve the quality of the workforce, reduce welfare dependency, and enhance the productivity and competitiveness of individuals.

Effective July 1, 2013, corrective actions may be placed on LWIBs that fail to meet at least 80% at levels previously agreed upon with the State, to ensure that service providers and the overall workforce investment area have adequate tools to maintain high standards of performance. These sanctions will provide technical assistance to improve performance, and the understanding necessary to take proper action if program performance is not improved.

The intent of this policy and procedure is to continue assisting and partnering with the LWIBs in meeting mutually agreed upon levels of performance in a program year. If an LWIB is not successful in reaching their performance goals in year one after the effective date of this policy and procedure, the WDC will be available to provide technical assistance utilizing funds reserved for statewide workforce investment activities under the Workforce Investment Act (WIA). This technical assistance may include the development of a performance improvement plan, modified local plan, or other appropriate actions intended to assist the LWIB in successfully improving their performance.

## **CORRECTIVE ACTIONS**

In the event a LWIB continues to fall short of agreed upon performance levels for core performance or customer satisfaction indicators, the WDC may take corrective actions as follows:

**1. For a one-year period of non-performance:**

Require the LWIB to evaluate the service provider, and submit a report to the DLIR Director and WDC entailing corrective actions taken to address poor performance issues. Additionally, the DLIR will provide technical assistance.

**2. For a two-year period of non-performance:**

The LWIB will be required to submit the following:

- a. Description of why corrective action was not effective from year one of non-performance;
- b. Additional corrective action currently being undertaken by the LWIB;
- c. Determination by the LWIB as to whether or not the service provider will be retained once the contract has ended, and rational.

Any sanctions imposed shall become effective as outlined in the notification, and shall remain in effect unless rescinded or revised by the WDC.

## **APPEAL PROCEDURE**

Within 30 days upon receipt of the sanction notice, a LWIB may appeal to the WDC to rescind or revise it. The WDC shall issue a final decision within 30 days upon receipt of the appeal.

## **WIA FINAL RULE, 20 CFR PARTS 660-671**

### **CHAPTER V: EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR**

#### **PART 666: PERFORMANCE ACCOUNTABILITY UNDER TITLE I OF THE WORKFORCE INVESTMENT ACT**

##### **Subpart D: Incentives and Sanctions for Local Performance**

666.420 - Under what circumstances may a sanction be applied to local areas for poor performance

(a) If a local area fails to meet the levels of performance agreed to under ? 666.310 for the core indicators of performance or customer satisfaction indicators for a program in any program year, technical assistance must be provided. The technical assistance must be provided by the Governor with funds reserved for Statewide workforce investment activities under WIA sections 128(a) and 133(a)(1), or, upon the Governor's request, by the Secretary. The technical assistance may include the development of a performance improvement plan, a modified local plan, or other actions designed to assist the local area in improving performance.

(b) If a local area fails to meet the levels of performance agreed to under ? 666.310 for the core indicators of performance or customer satisfaction indicators for a program for two consecutive program years, the Governor must take corrective actions. The corrective actions may include the development of a reorganization plan under which the Governor:

(1) Requires the appointment and certification of a new Local Board;

(2) Prohibits the use of particular service providers or One-Stop partners that have been identified as achieving poor levels of performance; or

(3) Requires other appropriate measures designed to improve the performance of the local area.

(c) A local area may appeal to the Governor to rescind or revise a reorganization plan imposed under paragraph (b) of this section not later than thirty (30) days after receiving notice of the plan. The Governor must make a final decision within 30 days after receipt of the appeal. The Governor's final decision may be appealed by the Local Board to the Secretary under 20 CFR 667.650(b) not later than thirty (30) days after the local area receives the decision. The decision by the Governor to impose a reorganization plan becomes effective at the time it is issued, and

remains effective unless the Secretary rescinds or revises the reorganization plan. Upon receipt of the appeal from the local area, the Secretary must make a final decision within thirty (30) days. (WIA sec. 136(h).)